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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/075,410	02/14/2002	Stephen G. Dick	I-2-142.3US	8149

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EXAMINER

JONES, PRENELL P

ART UNIT	PAPER NUMBER
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2667

DATE MAILED: 11/19/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/075,410

Applicant(s)

DICK ET AL.

Examiner

Prenell P Jones

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☒ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Double Patenting

1. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-16 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 4, 5, 7, 8, 11-14, 17-19, 21, 22 and 25-27 copending Application No. 09/572,796. Although the conflicting claims are not identical, they are not patentably distinct from each other because the limitations of the claims in the present application are all encompassed by the claimed limitations of US application 09/572,796 corresponding claims as indicated above. Claim 1-16 of the present application is a subcombination of US application 09/572,796.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter, which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claims 1 and 9, Applicant is claiming "a currently unused code" which is not discussed in the specification. Claims 2-8 and 8-16 depend on claims 1 and 9 respectively, therefore, claims 2-8 and 8-16 are rejected as well.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant is claiming, "a received for receiving an identifier" which is not clear to Examiner as to what Applicant is claiming.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

3. Claims 1, 3-5, 9 and 11-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Parsa et al (US 6,507,601), Parsa et al (US 6,643,318) in view Kanterakis et al.

Regarding claims 1, 3-5, 9 and 11-13, Parsa (US Pat. 6,507,601) discloses (Abstract, Fig. 1, 2, col. 3, line 51 thru col. 4, line 61, col. 5, line 46 thru col. 6, line 62) a CDMA system which includes communication between a base station and at least one of many mobiles selected by base station, plurality services (access opportunities) are provided using common packet channel (CPCH), spreading codes used to transmit information, (col. 7, line 11 thru col. 67) predetermined bit/code sequence, acknowledgement contains access preamble (AP) which contains identification, base station

acknowledges one access attempt per time-slot, access is associated with slots and signatures. Parsa (US 6,507,601) is silent on common packet channel defined by a predetermined set of codes. In analogous art, Parsa (US Pat. 6,643,318) discloses (Abstract, Fig. 1, 4, col. 4, line 30 thru col. 6, line 67, col. 9, line 10-41, col. 11, line 7-60) a CDMA system for resolving collision in a packet based communication system. wherein the communication is between base station and mobiles, assigning channel resources, set of predefined signatures, CPCH uses defined channelization/scrambling codes, and Kanterakis discloses (Abstract, col. 2, line 34 thru 4, line 31, col. 5, line 1-27) improvement of CDMA in a telecommunication environment wherein the architecture includes a base stations, plurality mobiles, common packet channel wherein the features (col. 9, line 18-67) include bandwidth management and acknowledgment mechanism, (col. 10, line 6-32) acknowledgment used by base station wherein frames/packets are identified by predetermined specific numbers, multiple access (access opportunities), (Fig. 8, col. 8, line 11-46) set of codes. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to be motivated to implement multiple predetermined set of codes associated with CPCH as taught by both Parsa (US 6,643,318) and Kanterakis with the teachings of Parsa (US 6,507,601) for the purpose of further managing and minimizing collisions associated with a CDMA communication system.

Allowable Subject Matter

4. Claims 2, 6-8, 10 and 14-16 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

5. The following is a statement of reasons for the indication of allowable subject matter: Although, the prior art a CDMA system which includes communication between a base station and at least one of many mobiles selected by base station, plurality services (access opportunities) are provided using common packet channel (CPCH), spreading codes used to transmit information, predetermined bit/code sequence, acknowledgement contains access preamble (AP) which contains identification, base station acknowledges one access attempt per time-slot, access is associated with slots and signatures, a CDMA system for resolving collision in a packet based communication system wherein the communication is between base station and mobiles, assigning channel resources, set of predefined signatures, CPCH uses defined channelization/scrambling codes, bandwidth management and acknowledgment mechanism, acknowledgment used by base station wherein frames/packets are identified by predetermined specific numbers, multiple access (access opportunities), set of codes, they fail to teach/suggest identifier is indicated by a selected one out of a set of Golay sequences, identifier is attached extra bits to an acknowledgment signal, identifier is indicated by a selected one out of a set of phases of an acknowledgment signal, identifier indicates an uplink spreading factor for communication to be sent from user to base station.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 703-305-0630. The examiner can normally be reached on Monday thru Friday from 9:00-5:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 703-305-4378. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-872-9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

Prenell Jones

November 17, 2003


CHI PHAM
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

11/17/03